<center>**REMARKS**</center>

This amendment is submitted in response to the Examiner's Action dated October 5, 2007 and in support of the RCE file concurrently herewith. Applicants have amended the claims to more clearly recite the novel features of the invention and overcome the §101 rejections. No new matter has been added, and the amendments place the claims in better condition for allowance. Applicants respectfully request entry of the amendments to the claims. The discussion/arguments provided below reference the claims in their amended form.

CLAIMS REJECTIONS UNDER 35 U.S.C. § 101

At paragraph 2 of the Office Action, the Examiner rejects Claims 21-30 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Accordingly, Applicants have amended the claims so that these claims now recite statutory subject matter and are in compliance with §101 requirements. The amendments thus overcome the §101 rejection. Applicants, therefore, respectfully request entry of the amendments and removal of the §101 rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

At paragraph 4 of the present Office Action, Claims 1-4, 8-9, 11-14, 18-19, 21-24 and 28-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Cohen* (U.S. Patent No. 5,881,315) in view of *The Open Group* (System Management: Event Management Service). At paragraph 5 of the present Office Action, Claims 5, 15 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Cohen* in view of *The Open Group* and further in view of *Bracho et al.* (U.S. Patent No. 6,021,443). At paragraph 6 of the present Office Action, Claims 6-7, 16-17 and 26-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Cohen* in view of *The Open Group* and further in view of *Bracho* and *Evans et al.* (U.S. Patent No. 7,191,180). At paragraph 7 of the present Office Action, Claims 10, 20 and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Cohen* in view of *The Open Group* and further in view of *Feridun et al.* (U.S. Patent No. 6,336,139).

Rebuttal of Response to Arguments

At paragraph 8 of the Office Action, Examiner provides his response to Applicants' arguments, which were provided in Amendment A. First Examiner indicates that the majority of the features recited by Applicants' independent claims related to "modeling publication data"

are taught by *Cohen* rather than by The Open Group. Cohen, however, does not teach or suggest the features related to that claim element. Further, as presented by Applicants, Applicants arguments regarding the failure of any particular single reference to teach or suggest a particular feature should not be construed as excluding from that argument any of the other references. Rather, Applicants arguments should be taken as cumulative with respect to all of the references, and applied to the entire set of references, both individually and in combination with each other.

Second, Examiner states that "[a]lthough Evan's method is directed to a "push" technique, and the data updated is not based on the freshness level, ... implementing a "pull" technique instead of the "push" technique because they are different design choices that are available to the developer." Applicants respectfully disagree with Examiner's characterization of what is a "design choice" in this context, and Applicants request Examiner provides a reference to support this boldface assertion.

The differences between a push technique and a pull technique in this technology area is so significant that one skilled in the art would not have been motivated to implement one method if the other method was called for, as both methods requires materially different engineering. (Users and engineers of Blackberry® devices will appreciate that this assertion by Examiner is not one that can be lightly made.)

Response to Rejections

With respect to the rejections themselves, Applicants hereby incorporates by reference the arguments proffered in Amendment A, and reiterates the majority of those arguments below. Applicants submit that the above combinations of references do not render Applicants claimed invention unpatentable because those combinations do not suggest several of the elements recited by Applicants' claims. Further, one skilled in the art, at the time of Applicants' invention, would not find Applicants' claimed subject matter to be suggested by the combinations of references. Applicants now submit substantive arguments to support that assertion.

A. General requirements for a claim rejection under 35 U.S.C. § 103

According to 35 U.S.C. §103(a):

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

In order to make the obviousness determination, the U.S. Supreme Court held in Graham v. John Deere Co., 383 U.S. 1 (1966) (hereinafter *John Deere*) that three factors must be considered:

(1)   the scope and content of the pertinent prior art;
(2)   differences between the pertinent prior art and the invention at issue; and
(3)   the ordinary level of skill in the pertinent art.

The U.S. Supreme Court clarified in KSR Intern. Co. v. Teleflex, Inc., 127 S.Ct. 1727 that a non-obviousness determination must include an inquiry as to "whether the improvement is more than the predictable use of prior art elements according to their established functions." Also, the Court in KSR stated that:

[I]t will be necessary for the court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having the ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit.

A. **Claims 1-4, 8-9, 11-14, 18-19, 21-24 and 28-29**

As noted above, Claims 1-4, 8-9, 11-14, 18-19, 21-24 and 28-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cohen (U.S. Patent No. 5,881,315) in view of The Open Group (System Management: Event Management Service). Applicants address the John Deere factors as they apply to the independent claims.

1. Scope and content of the prior art

Examiner relies primarily on *Open Group* to support the rejection of the relevant features of Applicants' exemplary independent claim (presented in Section 2, below). *Open Group* clearly teaches a generalized Event Management Service. In the conclusion of the Claim 1 rejection, Examiner states that "Open Group teaches a well designed Event Management Service

giving timely warning of impending problems, ... so cross-application correlation can be done at a higher level" (citing page 1, section 1.1 of *Open Group*).

The cited section of *Open Group*, namely page 16, section 2.2.2, that is specifically relied upon by Examiner in supporting the rejection of the exemplary independent claims, provides that "events" consist of two objects, a header and event data. The header is then described as containing the following: the event identifier, the origin of the event, the severity of the event, the time generated, the time delivered, and the priority of the event. The event data contains details of the event and is mapped by an Event Schema, which is used to support filtering and includes event type interface.

2. Differences between the prior art and the invention

Applicants exemplary Claim 1 recites:

> modeling publication data within a publication object ..., wherein said publication data is provided in a pre-established format consumable and recognizable by any one of a plurality of said subscribe components of the computer system environment which has a plurality of publish components along with the plurality of subscribe components coupled to nodes of a central information bus configuration (CIBC), which enables system-wide intercommunication among the plurality of publish and subscribe components; (Claims 1, 11, and 21; underlining added for emphasis);

Applicants have carefully reviewed the references within the above combination, and Applicants respectfully submit that nothing in the combination would suggests to one skilled in the art the "modeling" of publication data and associated features recited by the above Claim 1 element. More specifically, the specific reference (i.e., *Open Group*) relied upon to support the rejection of the above features fail to suggest these features. That is, *Open Group* does not provide a teaching, description or suggestion of modeling the publication data as recited by Applicants' independent claims.

As noted above, the cited section of that reference provides a description of events consisting of two objects, a header and event data. The section goes on to list elements with in the header and then states that the event data is mapped by an Event Schema, which is used to support filtering and includes event type interface. Clearly, this description of "events" is not the

focus of and does not suggest the features recite by Applicants' claimed invention. Neither does the description suggest the above features of Applicants' exemplary independent claims.

Finally, Examiner's conclusion at the bottom of page 5 of the Office Action supports Applicants assertion that this section of *Open Group* and *Open Group* as a whole provides features that are not even germane to the features recited by Applicants' independent claims. In the conclusion to the Claim 1 rejection, Examiner states that "Open Group teaches a well designed Event Management Service giving timely warning of impending problems, ...so cross-application correlation can be done at a higher level" (citing page 1, section 1.1 of *Open Group*). Again, this is not the focus of and does not suggest the features recite by Applicants' claimed invention.

3. One of ordinary level of skilled in the pertinent art

From the above arguments and the reasons provided therein, it is clear that the combinations of references do not suggest several of the novel features of Applicants' invention. Given the deficiencies noted in the primary reference (*Open Group*), one skilled in the art would not find Applicants' invention unpatentable over the combinations of references. The above claims are therefore allowable over the combinations. By their dependence on the above independent claims, all other claims not specifically mentioned in the present Section A are also allowable.

B. Claims 6-7, 16-17 and 26-27

At paragraph 8 of the present Office Action, Claims 6-7, 16-17 and 26-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Cohen* in view of *The Open Group* and further in view of *Bracho* and *Evans et al.* (U.S. Patent No. 7,191,180). Again, Applicants address the *John Deere* factors as they apply to the independent claims.

1. Scope and content of the prior art

Examiner relies primarily on *Evans* to support the rejection of the relevant features of Applicants' exemplary claim (presented in Section 2, below). Col. 4, lines 29-53 of *Evans*, cited to support the rejection of the exemplary claim elements, provides an update monitoring module installed on each data server that monitors for and detects when an update

occurs to the data set and forwards a copy of the updated data from the data server. *Evans'* method requires the publisher (data server) to always provide updated data for every change detected in the data, even if the previous data is not stale (by a time-based analysis). Also, *Evans* method requires each publishing data server to be equipped with the update monitoring module, and the module then operates to cause the data server to "push" a new data set every time the data is updated at the data server.

2. *Differences between the prior art and the invention*

Applicants' exemplary Claim 6 recites:

> said publication object <u>includes a freshness level indicator</u>; and … determining, prior to issuing said publication data, whether said publication object is stale; and when a queued publication object is stale, <u>triggering a publication of a more current publication object</u> from the publish component and discarding the queued publication object" (Claims 6, 16, 26; *underlining added for emphasis*).

Applicants have carefully reviewed the references within the above combination, and Applicants respectfully submit that nothing in the combination would suggests to one skilled in the art the use of a freshness level indicator and the associated features recited by the above Claim 6 elements. More specifically, the specific reference (i.e., *Evans*) relied upon to support the rejection of the above features fail to suggest these features. That is, *Evans* does not provide a teaching, description or suggestion of including a freshness level indicator within a publication object and then triggering a publication of a more current object when a queued publication object is stale.

As noted above, in contrast with the methods of Applicants' claimed invention, *Evans'* method requires the publisher (data server) to always provide updated data for every change detected in the data, even if the previous data is not stale (by a time-based analysis). Also, *Evans* method requires each publishing data server to be equipped with the update monitoring module, and the module then operates to cause the data server to "push" a new data set every time the data is updated at the data server.

Evans provides an update monitoring module installed internally within each data server that monitors for and detects when an update occurs to the data set and forwards a copy of the

updated data from the data server. *Evans* does not allow for or suggest an external triggering of the publication client to provide a more current publication object. *Evans* does not suggest (a) providing a freshness level indicator with the published object and/or (b) triggering publication of a more current version of the published data only when the previous version is determined to be stale, as determined by a local (time-based) analysis while the published object is within the queue.

In direct contrast, Applicants claims provide a freshness level indicator that is included within the published object. The freshness level indicator of the published object is evaluated at the queue and then the local logic triggers a request that is sent to the publisher for the publisher to provide a more current version of the published object when the current version within the queue is stale. That is, Applicants claims provide for a selective "pull" response to acquire a more current published object for only published objects that are determined to be stale, which is distinguishable from and not suggested by the automatic "push" operation from the data server as provided by *Evans*.

3. One of ordinary level of skilled in the pertinent art

From the above arguments and the reasons provided therein, it is clear that the combinations of references do not suggest the above novel features of Applicants' claimed invention. Given the above distinctions between *Evans* and the above combinations that include *Evans* with the features recited by the claim elements in Applicants' exemplary Claim 6, one of ordinary skilled in the pertinent art would not find Applicants' invention unpatentable over the combination of references. The above claims are therefore also allowable over the combinations.

CONCLUSION

Applicants have diligently responded to the Office Action by amending the claims to overcome the §101 rejections and to more clearly recite the novel features of Applicants' invention within the claims. Applicants have also provided arguments which explain why Applicants' claims are not obvious in light of the combinations of references provided. The amendments and arguments overcome the §101 and §103 rejections, and Applicants, respectfully request issuance of a Notice of Allowance for all claims now pending.

Applicants further respectfully request the Examiner contact the undersigned attorney of record at 512.343.6116 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,

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